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AUG 18 2005

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
T00025

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on ___August 16, 2005___ Signature_____ Typed or printed name ___Kent B. Chambers___	Application Number 09/760,062	Filed January 12, 2001
	First Named Inventor Christopher M. Connors	
	Art Unit 2172	Examiner Mark A. Fadok

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
    Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.   38,839
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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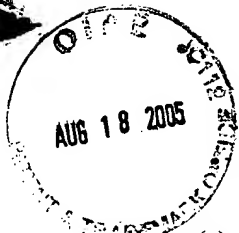
August 16, 2005
_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Christopher M. Connors, Andrew F. Miller, Joshua P. Walsky, James Singh, Andrew Leamon, Jeffrey R. VanDyke
Assignee:	Trilogy Development Group, Inc.
Title:	METHOD AND APPARATUS FOR PRODUCT COMPARISON

Serial No.:	09/760,062	Filed:	January 12, 2001
Examiner:	Mark A. Fadok	Group Art Unit:	2172
Docket No.:	T00025	Customer No.:	33438

Austin, Texas
August 16, 2005

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PRE-APPEAL BRIEF ARGUMENTS

Dear Sir:

This paper accompanies the Pre-Appeal Brief Request for Review and sets forth a succinct, concise, and focused set of arguments for which the review is being requested.

CLAIM STATUS

Claims 1-44 are pending.

Claims 2-7, 9-14, 16-21, 29, 31 and 33 are pending.

Claims 23-28, 30 and 32-39 have been withdrawn.

Claims 2-7, 9-14, 16-21, 29, 31 and 33 stand rejected.

Claims 1-44 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,728,685 issued to Ahluwalia (hereinafter "*Ahluwalia*").

ARGUMENTS

Applicants respectfully submit that the Examiner's rejection contains factual errors and, thus, the Examiner has failed to satisfy the PTO's burden of establishing a prima facie rejection.

The present invention of Claim 29 is a "method of comparing products wherein at least one of the products is automatically generated." Applicants respectfully submit that *Ahluwalia* fails to teach or suggest Claim 29 because, for example, *Ahluwalia* teaches the use of <u>only one</u> product configuration that may or may not identify one or more products and can be used to order a product, and Claim 29 teaches <u>a second, automatically generated</u> product configuration that results from separate and distinct request from received data used to generate a first product configuration.

The method of Claim 29 includes "receiving data from a first computer system, wherein the received data includes product configuration data." The method further includes "processing the received data with a second computer system to generate a first product configuration." *Id.* <u>The method further includes "receiving a request from the first computer system."</u> The received request is a specific request <u>that is neither taught nor suggested by *Ahluwalia.*</u> The received request is a request "to <u>automatically</u> generate <u>a second product configuration</u>". Applicants content that *Ahluwalia* fails to teach any such request to generate a second product configuration let alone a request "to automatically generate a second product configuration." Furthermore, the second product configuration is also specific in that the generated second product configuration "is comparable to the first product configuration." Applicants also contend that *Ahluwalia* fails to teach or suggest "processing the request with the second computer system to automatically generate the second product configuration" and "providing data to the first computer system to allow the first computer system <u>to display the first **and** second product configurations and allow comparison of features of the first and second product configurations</u>."

Ahluwalia teaches two arguably relevant requests. <u>The first request</u> is a consumer's inventory search request based upon a product configuration. Specifically, *Ahluwalia* teaches "As shown in FIG. 1, a consumer desiring to purchase a product first selects and configures the product as desired based upon available product features or options, as shown in block 10." *Ahluwalia*, col. 5, lns. 65-67. *Ahluwalia* further teaches that "Dealer inventory and "in-process"

product inventory are then searched to locate products that matched or substantially matched the consumer selected product configuration, as shown in block 20." *Id.*, col. 5, ln. 67 through col. 6, ln. 4. The second request is a consumer's order request. Specifically, "If no matching or otherwise acceptable at-dealer or in-process product can be located, then the consumer is provided the option to order the configured product, as shown in block 30." *Id.*, col. 6, lns. 7-10. See also, *Ahluwalia*, col. 8, lns. 26-31. "If a matching or similar product is located, then the located product is "tagged" or designated for purchase and/or delivery to the consumer." *Id.*, col. 6, lns. 10-13. However, both requests relate to a single submission of product configuration data by the consumer.

Applicants respectfully contend that (1) submitting product configuration data to facilitate an inventory search and (2) submitting an order if the inventory search fails, as taught by *Ahluwalia* **cannot teach or suggest** "receiving a request from the first computer system to automatically generate a second product configuration **that is** comparable to the first product configuration and processing the request with the second computer system to automatically generate the second product configuration" as required by Claim 29. *Ahluwalia* teaches that there is only one product configuration request that either (1) results in a match or substantial match with one or more vehicles in dealer or in-process inventory or (2) results in a custom order.

Accordingly, because *Ahluwalia* fails to teach or suggest "processing the request with the second computer system to automatically generate the second product configuration", it necessarily follows that *Ahluwalia* also fails to teach or suggest "providing data to the first computer system to allow the first computer system to display the first and second product configurations and allow comparison of features of the first and second product configurations." Although *Ahluwalia* can locate multiple products in inventory that match or substantially match the product configuration submitted by the customer, the multiple products located are the result of a single product configuration and request for an inventory search. The "second product configuration that is comparable to the first product configuration" in Claim 29 is the result of a second, separate request from the received data used to generate the first product configuration of Claim 29, i.e. separate from the "receiving data from a first computer system, wherein the

received data includes product configuration data and receiving data from a first computer system, wherein the received data includes product configuration data." Claim 29.

The Examiner cites *Ahluwalia* col. 17, lines 23-55 "particularly return of searched vehicle selections" and "configured model tags 1031" as teaching "receiving a request from the first computer system to automatically generate a second product configuration that is comparable to the first product configuration [and] processing the request with the second computer system to automatically generate the second product configuration." Although col. 17, lines 23-55 provide teachings about tagging and multiple feature types of vehicles *Ahluwalia*, all of the data still relates to the <u>single</u> customer selected product inventory search request based on a single product configuration data submission and, thus, cannot teach or suggest "receiving a request from the first computer system <u>to automatically generate a second product configuration</u> that is comparable to the first product configuration [and] processing the request with the second computer system to automatically generate the second product configuration." Claim 29.

Applicants respectfully submit that *Ahluwalia* also fails to teach or suggest "providing data to the first computer system to allow the first computer system to display the first and second product configurations and allow comparison of features of the first and second product configurations" because (1) any two products located by *Ahluwalia* are not generated in the same manner as required by Claim 29 (as demonstrated above), and (2) the extent of *Ahluwalia*'s product comparison is a reference in Figure 37A to "A compare vehicles tag 2126 [that] is used to provide data on the vehicles 2127 the consumer comparison shopped." There's no teaching by *Ahluwalia* that the vehicles are ever displayed to allow comparison. The only teaching is that the consumer may have compared vehicles without any teaching as to when or how they were compared.

Applicants respectfully submit that the arguments above apply in principle to independent Claims 31 and 33 and to all claims dependent upon Claims 29, 31, and 33.

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CONCLUSION

Accordingly, Applicants respectfully submit that the Examiner has made a material, factual error in interpreting *Ahluwalia* and accordingly the Examiner has failed to establish a prima facie case.

In light of the above remarks, Applicants respectfully request withdrawal of the rejections.

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_____   8-16-05
Attorney for Applicant(s)   Date of Signature

Respectfully submitted,

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